

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:11-cv-50-RJC**

TERRENCE WRIGHT EL,)
)
 Plaintiff,)
)
 v.)
)
 JAMES U. DOWNS, Judge;)
 WANDA BROOMS, Graham)
 County Clerk;)
 GRAHAM COUNTY;)
 STATE OF NORTH CAROLINA,)
)
 Defendants.)
 _____)

ORDER

THIS MATTER comes before the Court on initial review of Plaintiff's pro se Complaint, filed on November 18, 2011 pursuant to 42 U.S.C. § 1983. (Doc. No. 1).

On November 18, 2011, Plaintiff filed the instant Complaint seeking to challenge the racial designation that has been assigned to him by the North Carolina courts and the North Carolina Department of Corrections. (*Id.* at 1-8). Plaintiff filed an Application to Proceed in District Court Without Prepaying Fees or Costs. (Doc. No. 1-2).

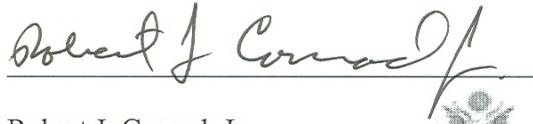
The so called "three strikes" provision of the Prisoner Litigation Reform Act ("PLRA") makes clear that "[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Pertinent Court records indicate that this Court already

has determined that Plaintiff has three strikes against him for previously having filed at least five civil rights complaints in this Court that were dismissed for their failure to state a claim for relief.¹ Furthermore, the instant Complaint fails to demonstrate that Plaintiff is under imminent danger of serious physical injury. Therefore, this Complaint must be dismissed without prejudice.

IT IS, THEREFORE, ORDERED that:

- (1) Plaintiff's Complaint, (Doc. No. 1), is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915(g);
- (2) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, (Doc. No. 1-2), is **DENIED**; and
- (3) The Clerk is directed to send a copy of this Order to the Plaintiff.

Signed: December 20, 2011


Robert J. Conrad, Jr.
Chief United States District Judge



¹ See Wright-El v. Downs, et al., Case No. 2:11-cv-44-RJC, Doc. No. 2 (citing dismissed cases, denying IFP Application and dismissing case without prejudice).